

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RIGOBERTO SARAMIENTO, et al.,

Plaintiffs,

v.

FRESH HARVEST, INC., et al.,

Defendants.

Case No. 20-cv-07974-BLF (SVK)

**ORDER ON JOINT DISCOVERY
LETTER BRIEF RE SUBPOENA TO
JEANNE MALITZ OF MALITZLAW,
INC.**

Re: Dkt. No. 58

The Court has received and evaluated the Parties' Joint Statement regarding Plaintiffs' subpoena to Jeanne Malitz, including the subject subpoena, objections and the arguments presented. Dkt. 58. This matter is suitable for resolution without oral argument. Civil L.R. 7-1(b).

Plaintiffs' effort to argue against the high likelihood that Ms. Malitz's files regarding work performed for Defendants Fresh Harvest and SMD are subject to the attorney-client privilege is not persuasive. Indeed, but for documents provided to third party government entities, it is more likely than not that the documents sought are either privileged in their entirety or, at a minimum, would have privileged communications so tightly interleaved that redaction would not be feasible. Further, in light of the marginal additive value of such documents to the issue of employer identity, particularly in light of previous productions ordered by this Court, production of any non-privileged documents would not be proportional to the needs of the case. The preparation of and subsequent argument about a privilege log is similarly unwarranted.

Accordingly, Plaintiffs' motion to compel is DENIED, EXCEPT as noted below:

- Subpoena Category no. 1: Denied in its entirety.

- Subpoena Category no. 2: Granted only as to documents provided to a government entity and not previously produced by Defendants.
- Subpoena Category no. 3: Denied in its entirety. Correspondence with a government entity not tied to Defendants is irrelevant; correspondence with the Defendants is privileged.

SO ORDERED.

Dated: June 29, 2021



SUSAN VAN KEULEN
United States Magistrate Judge